

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA

Franklin A. Benjamin,)	
)	
Petitioner,)	
)	
vs.)	Civil Action No. 9:12-2378-TLW-BM
)	
State of South Carolina, <i>et al.</i> ,)	
)	
Respondents.)	
_____)	

ORDER

Petitioner Franklin A. Benjamin (“Petitioner”) brought this civil action, *pro se*, pursuant to 28 U.S.C. § 2254. (Doc. # 1).

The matter now comes before this Court for review of the Report and Recommendation (“the Report”) filed by Magistrate Judge Bristow Marchant to whom this case had previously been assigned. In the Report, the Magistrate Judge recommends that Petitioner’s § 2254 petition be dismissed without prejudice as a successive filing under Rule 9 of the Section 2254 Rules and without requiring the Respondents to file a return. (Doc. # 7). Objections were due by October 9, 2012. Petitioner has filed no objections to the Report.

This Court is charged with conducting a de novo review of any portion of the Magistrate Judge’s Report and Recommendation to which a specific objection is registered, and may accept, reject, or modify, in whole or in part, the recommendations contained in that Report. 28 U.S.C. § 636. In the absence of objections to the Report and Recommendation of the Magistrate Judge, this Court is not required to give any explanation for adopting the recommendation. See Camby v. Davis, 718 F.2d 198, 199 (4th Cir. 1983).

The Court has carefully reviewed the Magistrate Judge's Report and Recommendation. For the reasons articulated by the Magistrate Judge, it is hereby **ORDERED** that the Magistrate Judge's Report and Recommendation is **ACCEPTED**. (Doc. # 7). The § 2254 petition in the above-captioned matter is dismissed without prejudice as a successive petition under Rule 9 of the Section 2254 Rules. Respondents are not required to file a return.

The Court has reviewed this petition in accordance with Rule 11 of the Rules Governing Section 2254 Proceedings. The Court concludes that it is not appropriate to issue a certificate of appealability as to the issues raised herein. Petitioner is advised that he may seek a certificate from the Fourth Circuit Court of Appeals under Rule 22 of the Federal Rules of Appellate Procedure.

IT IS SO ORDERED.

October 16, 2012
Florence, South Carolina

s/Terry L. Wooten
United States District Judge